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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

GRANT HOUSE, *et al.*,

Plaintiffs,

v.

NATIONAL COLLEGIATE ATHLETIC
ASSOCIATION, *et al.*,

Defendants.

No. 4:20-cv-03919 CW

**STIPULATED [PROPOSED] ORDER
REGARDING DISCOVERY OF
ELECTRONICALLY STORED
INFORMATION**

TYMIR OLIVER, *et al.*,

Plaintiffs,

v.

NATIONAL COLLEGIATE ATHLETIC
ASSOCIATION, *et al.*,

Defendants.

No. 4:20-cv-04527 CW

1 **1. PURPOSE**

2 Unless otherwise agreed to by the parties, this Order will govern discovery of
3 electronically stored information (“ESI”) in these cases, as well as any subsequent consolidated as
4 a supplement to the Federal Rules of Civil Procedure, this Court’s Guidelines for the Discovery of
5 Electronically Stored Information, and any other applicable orders and rules. Capitalized terms in
6 this Order are defined in the attached Exhibit A.

7 **2. COOPERATION**

8 The parties are aware of the importance the Court places on cooperation and commit to
9 cooperate in good faith throughout the matter consistent with this Court’s Guidelines for the
10 Discovery of ESI.

11 **3. LIAISON**

12 The parties will identify liaisons to each other who are and will be knowledgeable about
13 and responsible for discussing their respective ESI. Each e-discovery liaison will be, or have
14 access to those who are, knowledgeable about the technical aspects of e-discovery, including the
15 location, nature, accessibility, format, collection, search methodologies, and production of ESI in
16 this matter. The parties will rely on the liaisons, as needed, to confer about ESI and to help resolve
17 disputes without court intervention.

18 **4. PRESERVATION**

19 The parties have discussed their preservation obligations and needs and agree that
20 preservation of potentially relevant ESI will be reasonable and proportionate. Given the nature and
21 complexity of these actions, the parties agree to address methods to reduce the costs and burdens
22 of preservation and to ensure proper ESI is preserved in response to particular discovery requests.

23 The following categories of ESI are not discoverable—and, to the extent that they exist,
24 need not be retained, processed, reviewed, or produced—except upon a showing of good cause:

- 25 (a) recorded voice messages, including voicemail in the Avaya Voice Player (.lvp) or WAVE
26 (.wav) file formats; (b) instant messaging communications, including Skype communications,
27 Zoom chats, and similar videoconferencing functions; (c) temporary data stored in a computer’s

1 random access memory (RAM), or other ephemeral data that are difficult to preserve without
 2 disabling the operating system; (d) common system and program files; (e) slack, fragmented,
 3 unallocated data, or data that no longer has a file marker on hard drives; (f) electronic mail sent to
 4 or from mobile devices (e.g., iPhone and Blackberry devices), provided that a copy of such mail is
 5 routinely saved elsewhere; (g) other electronic data stored on a mobile device, such as calendar or
 6 contact data or notes, provided that a copy of such information is routinely saved elsewhere; (h)
 7 logs of calls made from mobile devices; (i) Network Access Server Activity Logs; (j) data
 8 remaining from systems that are no longer in use, and that is unintelligible on systems in use; (k)
 9 Online Access Data such as temporary internet files, history, cache, cookies, etc.; and (l) data in
 10 metadata fields that are frequently updated automatically, such as last opened dates, (m) text,
 11 iMessage, or pin-to-pin messages sent to or from mobile devices (e.g., iPhone and Blackberry
 12 devices) and (n) back-ups or other long-term storage media (Backup and Archival Files) that were
 13 created strictly for use as data back-up or disaster recovery medium.

14 **5. GIA DOCUMENTS**

15 The Court has deemed produced in this litigation documents previously produced in *In re*
 16 *NCAA GIA Cap Antitrust Litigation*, Case Nos. 4:14-md-02541-CW and 4:14-cv-02758-CW,
 17 which include certain documents also produced in *O'Bannon* (the “GIA documents”). There is no
 18 requirement that any party reproduce the *GIA* documents in this case or provide additional or
 19 different information or metadata for those documents. The parties further agree that the privilege
 20 and/or redaction logs produced in connection with *GIA* suffice for purposes of the *GIA* documents.

21 **6. SEARCH**

22 The parties will cooperate in good faith regarding the disclosure and formulation of
 23 appropriate search terms and protocols used to search for ESI responsive to document requests
 24 served pursuant to Fed. R. Civ. P. 34. The parties shall meet and confer as early as possible to
 25 discuss, *inter alia*:

- 26 • Disclosure of search terms used to search for documents responsive to document
- 27 requests, including semantic synonyms. Semantic synonyms shall mean without

1 limitation code words, terms, phrases or illustrations, acronyms, abbreviations, or non-
 2 language alphanumeric associational references to relevant ESI, or information that
 3 may lead to the discovery of relevant ESI.

- 4 • Post-search error sampling and sampling/testing reports, if any.
- 5 • Potential use of computer-assisted review of predictive coding techniques.

6 The parties will meet and confer, prior to the application of search terms to find
 7 documents responsive to party document requests, and will review any search terms proposed
 8 and/or requested by the parties. The parties will continue to meet and confer regarding any search
 9 process issues as necessary and appropriate, including any supplemental requests to add additional
 10 search terms based on supplemental document productions by either party. This ESI protocol does
 11 not impose upon any party an obligation to run supplemental searches, nor does it address or
 12 resolve any objection to the scope of the parties' respective discovery requests.

13 7. PRODUCTION FORMATS

14 The parties agree that documents produced in these proceedings, whether originally stored
 15 in paper or electronic form, shall be produced in electronic form in the manner as described below.
 16 Notwithstanding the foregoing provisions of this paragraph, the Parties reserve the right to request
 17 that an alternative format or method of production be used for certain Documents. In that event,
 18 the Receiving Party and the Producing Party will meet and confer to discuss alternative production
 19 requirements, concerns, formats, or methods.

20 **a) Document Format.** Documents shall be produced according to the following
 21 formats:

- 22 i) Electronic Production of Paper Documents. Documents that are maintained
 23 in paper format shall be scanned per document and converted to a Static Image,
 24 and, except as otherwise provided below, shall be produced as black and white 1-
 25 bit TIFF images at 300 x 300 d.p.i. or greater resolution, in Group 4 compression
 26 single-page TIFFs and reflect the full and complete information contained in the
 27 original Document. Paper Documents shall be produced in black and white, except

1 where color is necessary to decipher the meaning, context, or content of the
 2 document. The Producing Party shall honor reasonable requests for either the
 3 production of the original Document for inspection and copying or production of a
 4 color image of the Document. Documents shall also be produced with the
 5 associated OCR, and with a load file, in accordance with paragraph 6(a)(iii), below.
 6 No Producing Party shall be required to ensure that the OCR is an exact duplicate
 7 of the contents of the TIFF image; and the Receiving Party shall accept the OCR in
 8 its “as is” condition. In the event a Document is redacted, the Producing Party shall
 9 withhold the redacted text for that Document.

10 ii) Electronically Stored Information. Except as provided in paragraph 6(a)(iv)
 11 below, Document images shall be generated from electronic Documents in a Group
 12 4 compression single-page TIFF image that reflects the full and complete
 13 information contained on the original Document. All black and white images must
 14 be in TIFF image format and color documents, if applicable, must be in JPG image
 15 format, together with a Load File or functional equivalent specified in Paragraph
 16 6(a)(iii) that contains the metadata as set forth in Paragraph 6(h), below, and
 17 Extracted Text or associated OCR or a link thereto. Files shall be imaged to show
 18 track changes, speaker notes, and user comments. In the event a Document is
 19 redacted, the Producing Party shall withhold the redacted text for that Document.

20 iii) File Structure. Each production shall include the following unless
 21 otherwise agreed between the parties:

22 **a. Index File:**

- 23 • Each production has one index file, in .DAT file format
- 24 • The format of the DAT file shall use Western European (Windows)
 25 encoding.
- 26 • Standard Concordance delimiters shall be used
- 27 ○ Comma — ASCII character 20 (¶)

- Quote — ASCII character 254 (b)
- Newline — ASCII character 174 (®)
- First line must contain the column/field names (set forth in paragraph 6(h) herein)
- The fields BEGINBATES, ENDBATES, TEXTPATH and NATIVELINK (where applicable) must be present
- Each subsequent row must contain the Metadata for one Document
- Every row must have the same number of columns/fields (empty values are acceptable)
- File shall be placed in the *DATA* subdirectory

b. OCR and Extracted Text Files (.TXT Files):

- A single text file for each Document containing all the Document's pages, in text.
- Filenames shall be of the form: <Bates num>.txt, where <Bates num> is the Bates number of the first page of the Document, filenames shall not contain spaces
- Text must be encoded in Western European (Windows) format
- The TEXTPATH of the OCR or Extracted Text files shall be included as a field in the DAT file listed above
- Files shall be placed in the *TEXT* subdirectory

c. Image Files:¹

- A single image for each page in each Document
- A single image per file (no multi-page image files)
- The default format shall be black and white single-page TIFF images and color JPG images, if applicable.

¹ Not required for documents produced in Native Format.

- Filenames shall be of the form: <Bates num>.<ext>, where <Bates num> is the BATES number of the page, and <ext> is the appropriate extension for the image format (.jpg, .tif, .png, etc.), filenames shall not contain spaces
- Files shall be placed in the *IMAGES* subdirectory

d. Native Files:

- Native files need only be produced for (a) Microsoft Excel files, (b) Microsoft PowerPoint files, (c) audio files, (d) video files, and (e) other files that the parties may agree shall be produced natively pursuant to paragraph 6(a)(iv), below.
- Where Documents are produced in Native Format (pursuant to paragraph 6(a)(iv) below) filenames must be unique in the production, unless the content is identical; preferably by naming files by the starting Bates number of the associated document
- The filename of a native file must retain the file extension corresponding to the original Native Format; for example, an Excel 2003 spreadsheet's extension must be .xls
- Each native file filename must correspond to the NATIVELINK metadata field in its corresponding document's row in the DAT file
- Where native files are produced pursuant to this subsection, it is unnecessary to produce Image Files, such as TIFF images, other than the bates stamped native placeholder with confidentiality designation (when applicable) discussed below.
- Any native file text must be encoded in Western European (Windows) format
- Native files shall be placed in the *NATIVES* subdirectory

iv) Native Format Documents. The parties recognize that it may be

1 appropriate for certain Documents to be produced in Native Format. Therefore, the
2 Producing Party shall produce all .XLS spreadsheets, .PPT presentations, audio
3 files, and video files, and any files that cannot be imaged properly, in Native
4 Format unless there is an agreement to the contrary, with bates stamped native
5 placeholder documents representing native documents for purposes of document
6 identification and confidentiality designations. The Receiving Party may also
7 request that the Producing Party produce additional file types of electronic
8 Documents in Native Format where the converted image format distorts or causes
9 the information to be improperly displayed, or for which there is no visual
10 representation, such as database files. The parties will meet and confer regarding
11 such requests.

12 If a Document to be produced as a Native Format contains privileged
13 information as well as non-privileged information, it shall be produced in TIFF
14 format with redactions rather than Native Format, except that Excel spreadsheets
15 may be produced in Native Format with redactions. If redacting information causes
16 formatting issues in any Document, the Producing Party and Requesting Party will
17 meet and confer in good faith in an effort to resolve the issues.

18 To the extent the Producing Party wishes to establish additional procedures for
19 the protection of confidential information as defined in any applicable Protective
20 Order entered herein produced in Native Format, the Producing Party and the
21 Receiving Party shall meet and confer to establish additional procedures, to the
22 extent necessary, for the protection of the information in Native Format.

23 v) Resolution of Production Issues. If Documents cannot be read because of
24 imaging, software compatibility, or formatting problems, the Producing Party and
25 the Receiving Party shall meet and confer to attempt to resolve problem(s), to the
26 extent the problem(s) are within the Parties' control.

27 vi) Support for Experts' Opinions. Unless a Document shall be produced in

1 Native Format, Documents supporting the Producing Party's experts' opinions
2 shall be produced as color PDF files or color JPG files where the original
3 Document contains color and color is necessary to decipher the meaning, context or
4 content of the document.

5 **b) Production Media.** A Producing Party shall produce Documents electronically,
6 i.e. FTP or Share File, or on such readily accessible computer or electronic media as the
7 Producing Party and the Receiving Party may hereafter agree upon (the "Production
8 Media"). Information that shall be identified on the face of the Production Media shall
9 include: (1) the production date, and (2) the confidentiality notation required by the
10 Protective Order entered in this case, if the media contains Confidential Information, as
11 defined in the Protective Order. The face of the Production Media shall also contain the
12 Bates Number range(s) of the Documents on the Production Media. When produced
13 electronically the same information may be provided in an accompanying email or letter. If
14 the Producing Party encrypts or "locks" the production, the Producing Party shall include
15 with the production or in a separate letter or email an explanation of how to decrypt the
16 files. The parties agree to the following production formats: Electronically (i.e. SFTP or
17 Share File site), CD, DVD or external USB hard drive, whichever results in the least
18 number of items.

19 **c) Production of Structured Data.** To the extent a response to discovery requires
20 production of discoverable electronic information contained in a Database which may
21 contain potentially responsive information, in lieu of producing the Database, the parties
22 shall meet and confer to agree upon a set of queries to be made for discoverable
23 information and generate a report in a reasonably usable and exportable electronic file
24 (e.g., Excel or CSV format) for review by the Requesting Party or counsel. As part of the
25 meet and confer process, the Producing Party will, at a minimum, identify for the
26 Requesting Party all data fields containing potentially responsive information in the
27

1 Database and provide any data dictionary necessary to understand those fields.² Upon
 2 review of the report(s), the Requesting Party may make reasonable requests for additional
 3 information to explain the Database scheme, codes, abbreviations, and different report
 4 formats or to request specific data from identified fields.

5 If a Producing Party asserts that certain Database ESI is inaccessible or
 6 otherwise unnecessary or inadvisable under the circumstances, or if the Requesting Party
 7 asserts that, following production, certain Database ESI is not reasonably usable, the
 8 parties shall meet and confer with their respective technology experts to discuss resolving
 9 such assertions. If the parties cannot resolve any such disputes after such a meet and confer
 10 has taken place, the issue shall be presented to the Court for resolution.

11 **d) Document Unitization.** Paper documents scanned into Document Images shall
 12 be logically unitized in a manner so as to maintain the document(s) and any attachments,
 13 as they existed in their original state, if possible. For electronic documents, the relationship
 14 of Documents in a Document collection (e.g., cover letter and enclosures, e-mail and
 15 attachments, binder containing multiple documents, or other documents where a parent-
 16 child relationship exists between the documents) shall be maintained through the scanning
 17 or conversion process from Native Format to TIFF, provided however that the Parties shall
 18 only be required to present one level of parent-child relationship. Document Images
 19 generated from attachments to e-mails stored in Native Format shall be produced
 20 contemporaneously and sequentially immediately after the parent e-mail. All hard copy
 21 Documents imaged and produced electronically shall include a unitization file ("load file")
 22 in accordance with paragraph 6(a)(iii)(a).

23 **e) Duplicates.** The Producing Party may remove duplicate Documents pursuant to
 24

25 ² The parties are meeting and conferring about whether, if discovery requires production of
 26 discoverable electronic information contained in a Database, the Producing Party will identify for
 27 the Requesting Party *all* data fields in a Database which contains potential responsive information
 and provide any data dictionary necessary to understand those fields. If the parties cannot reach
 agreement on this issue, each reserves the right to ask the Court to resolve it.

the following limitations: removal of duplicates shall only be done on exact duplicate Documents (based on MD5 or SHA-1 hash values at the Document level). As a general rule, a Producing Party may de-duplicate its production within a source (custodian), or across the entire production (cross-custodian/globally). With respect to hard copy documents for which metadata does not exist, however, a Producing Party may only de-duplicate within a source (e.g., custodian), provided however that if the Producing Party provides the custodian field for metadata as requested in Exhibit B it may de-duplicate across the entire production. If a Producing Party de-duplicates across the entire production (globally), the Producing Party shall provide both of the following: (1) name of each custodian possessing the de-duplicated copy (the All Custodians metadata fields); and (2) the original file path of each de-duplicated copy (the All Paths metadata field). Where any such Documents have attachments, hash values must be identical for both the document-plus-attachment (including associated metadata) as well as for any attachment (including associated metadata) standing alone. Nothing in this paragraph is intended to resolve a Producing Party's objections in written discovery requests on the ground that the request is duplicative because the requested Documents were produced or are being produced by other parties.

f) Paper Documents Containing Fixed Notes. Paper Documents that contain fixed notes shall be scanned with the notes affixed, if it can be done so in a manner so as not to obstruct other content on the Document. If the content of the Document is obscured by the affixed notes, the Document and note shall be scanned separately.

g) Bates Numbering and Other Unique Identifiers. Each Producing Party shall Bates number its production(s) as follows:

i) Document Images. Each page of a produced Document—except Native Files—shall have a legible, unique page identifier (“Bates Number”) electronically “burned” onto the image at a location that does not unreasonably obliterate, conceal, or interfere with any information from the source document. The Bates

1 Numbers shall be enumerated as defined in Exhibit A. The Producing Party will
2 use a consistent prefix throughout the matter unless good reason exists for using a
3 different prefix. No other legend or stamp will be placed on the Document Image
4 other than a confidentiality legend (where applicable), redactions, the Bates
5 Number identified above, and any other internal tracking number that the
6 Producing Party may choose to use. The confidentiality legend shall be “burned”
7 onto a Document’s image at a location that does not unreasonably obliterate or
8 obscure any information from the source document.

9 ii) Native Format Documents. In the event Native Format Documents are
10 produced, in order to preserve the integrity of those Native Format Documents, no
11 Bates Number, confidentiality legend or internal tracking number shall be added to
12 the content of the Native Document unless otherwise agreed between the Producing
13 Party and the Receiving Party during any meet and confer related to confidentiality
14 protections for Native Format Documents; however, the Producing Party will
15 provide a MD5 Hash Value for each Native Format Document.

16 **h) Metadata.** The Producing Party shall produce the metadata information
17 described in Exhibit B, if available, with each production and in the format described in
18 Paragraph 6(a)(iii)(a) above. The Producing Party has no obligation or duty to fill in any
19 metadata fields or create any metadata that is not present with the original file. The
20 Producing Party also has no obligation or duty to recollect documents already collected in
21 in response to discovery requests during the *GIA* litigation to fill in any metadata fields as
22 long as the original collection was consistent with the ESI Protocol entered in the *GIA*
23 litigation. For each Document, the Producing Party shall produce a line in the index file
24 with the fields identified in Exhibit B, where available. The field naming conventions shall
25 be as described in Exhibit B unless otherwise agreed and consistently applied across all
26 productions.

27 **i) Compressed Files.** Compression file types (i.e., .CAB, .GZ, .TAR, .Z, .ZIP)

1 shall be decompressed in a reiterative manner to ensure that a zip within a zip is
2 decompressed into the lowest possible compression resulting in individual folders and/or
3 files.

4 **j) Email Threading.** Email thread suppression techniques may be applied to
5 eliminate or withhold documents from production provided the use of such techniques are
6 disclosed at the time of production and provided that the All Custodians and All Paths
7 metadata for lesser inclusive emails that are within the Producing Party's agreed-to review
8 population and suppressed from production are included in the metadata for the most
9 inclusive emails that are produced. Additionally, all non-duplicate email attachments
10 included in the lesser inclusive emails that are suppressed shall be produced.

11 **8. PHASING**

12 When a party propounds discovery requests pursuant to Fed. R. Civ. P. 34, the parties
13 agree to meet and confer regarding the phasing of the production of ESI, should such phasing be
14 appropriate.

15 **9. OBJECTIONS TO ESI PRODUCTION**

16 If either party objects to producing requested information in the formats described herein
17 on the grounds that such information is not reasonably accessible because of undue burden or cost,
18 before asserting such an objection, the Responding Party will inform the Requesting Party of any
19 format in which it is willing to produce the requested data, the nature and location of the
20 information claimed to not be reasonably accessible, the reason(s) why the requested form of
21 production would impose an undue burden or is unreasonably costly, and afford the requesting
22 party 10 business days from receipt of such notice to propose an alternative means of compliance
23 with the request. Such proposal may include alternative cost estimates for ESI discovery
24 production, may offer a proposal for ESI discovery cost allocation, or both.

25 The parties shall meet and confer in good faith to resolve any dispute regarding a proposed
26 deviation from the provisions of this stipulation. To the extent the parties are unable to resolve any
27 such dispute, each party reserves the right to seek judicial intervention in compliance with the

1 relevant court rules and orders. Nothing in this Order negates the parties' ongoing obligations to
2 report spoliation of evidence.

3 **10. DOCUMENTS PROTECTED FROM DISCOVERY**

4 a) For any document withheld in its entirety or produced but redacted on the
5 basis of privilege or work product protections, the party withholding the document(s) (the
6 "Withholding Party") will produce privilege/redaction logs consistent with the
7 requirements of the Federal Rules of Civil Procedure.

8 b) The logs shall be in Excel format or any other format that permits electronic
9 sorting and searching, except that the parties shall have no obligation to log information
10 either (i) generated on or after June 15, 2020 or (ii) involving privileged communications
11 with outside counsel. When there is a chain of privileged e-mails, the Withholding Party
12 need only include one entry for the top/most recent email on the privilege/redaction log for
13 the entire e-mail chain and need not log each e-mail contained in the chain separately. For
14 each document withheld or redacted, the Producing Party's privilege/redaction logs shall
15 include the following information, where available: (a) custodian or source; (b) date; (c)
16 author(s); (d) for documents produced but redacted on the ground of privilege, the starting
17 and ending Bates number; (e) recipient(s), CC(s) and BCC(s) (for e-mail and hard-copy
18 communication such as letters and internal memoranda); (f) specification of the privilege
19 claimed; and (g) a description of the document and the basis for the privilege or redaction
20 claim. Privilege/redaction logs shall be produced within 45 days of the substantial
21 completion of a party's production, or another time period mutually agreed to by the
22 parties.

23 c) Pursuant to Fed. R. Evid. 502(b), the disclosure of a communication or
24 information covered by the attorney-client privilege or work-product doctrine does not
25 operate as a waiver if (1) the disclosure is inadvertent; (2) the holder of the privilege or
26 protection takes reasonable steps to prevent disclosure; and (3) the holder promptly took
27 reasonable steps to rectify the error, including (if applicable) following Federal Rule of

Civil Procedure 26(b)(5)(b).

d) All other issues of privilege, including the production of privileged or protected documents or information, shall be governed by the Protective Order entered by the Court in this litigation.

11. MODIFICATION

This Stipulated Order may be modified by a Stipulated Order of the parties or by the Court for good cause shown.

12. MISCELLANEOUS

This Stipulated Order is not intended to govern any protections or restrictions related to the production of privileged litigation material. Any documents recalled due to a mutually-agreed upon clawback provision shall have a specific protocol followed to ensure all copies of each such document are appropriately removed from the review system of the opposite party.

IT IS SO STIPULATED, through Counsel of Record.

Dated: December 11, 2020

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By: /s/ Steve W. Berman

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E-FILING ATTESTATION

I, Steve W. Berman, am the ECF User whose ID and password are being used to file this document. In compliance with Civil Local Rule 5-1(i)(3), I hereby attest that each of the signatories identified above has concurred in this filing.

/s/ Steve W. Berman

STEVE W. BERMAN

* * *

[PROPOSED] ORDER

**PURSUANT TO STIPULATION,
IT IS SO ORDERED.**

DATED: _____, 2020

THE HON. CLAUDIA WILKEN
UNITED STATES DISTRICT JUDGE

EXHIBIT A**DEFINITIONS**

A. “Electronically stored information” or “ESI,” as used herein, means and refers to computer generated information or data of any kind, stored in or on any storage media located on computers, file servers, disks, tape or other real or virtualized devices or media. Non-limiting examples of ESI include:

- Digital communications (e.g., e-mail, voice mail, instant messaging);
- E-Mail Server Stores (e.g., Lotus Domino .NSF or Microsoft Exchange .EDB);
- Word processed documents (e.g., Word or WordPerfect files and drafts);
- Spreadsheets and tables (e.g., Excel or Lotus 123 worksheets);
- Accounting Application Data (e.g., QuickBooks, Money, Peachtree data);
- Image and Facsimile Files (e.g., .PDF, .TIFF, .JPG, .GIF images);
- Sound Recordings (e.g., .WAV and .MP3 files);
- Video and Animation (e.g., .AVI and .MOV files);
- Databases (e.g., Access, Oracle, SQL Server data, SAP);
- Contact and Relationship Management Data (e.g., Outlook, ACT!);
- Calendar and Diary Application Data (e.g., individual entries stored in an Outlook PST, blog entries);
- Online Access Data (e.g., Temporary Internet Files, History, Cookies);
- Presentations (e.g., PowerPoint, Corel Presentations);
- Network Access and Server Activity Logs;
- Project Management Application Data;
- Computer Aided Design/Drawing Files;
- Backup and Archival Files (e.g., Veritas, Zip, .GHO); and
- Cloud based or other virtualized ESI, including application, infrastructure and data.

B. “Native File(s)” or “Native Format” means and refers to ESI that has an associated file structure defined by the creating or viewing application in the file type for (or of)

1 the application in which such ESI is normally created, viewed, modified and/or as used by the
2 producing party in the normal course of its business.

3 **C. “Metadata”** means and refers to information embedded in or associated
4 with a Native File (i) that does not constitute the primary content region of the file; (ii) that is not
5 ordinarily viewable or printable from the application that generated, edited, or modified such
6 Native File that describes the characteristics, origins, usage and/or validity of the electronic file;
7 and/or (iii) that is generated automatically by the operation of a computer or other information
8 technology system when a Native File is created, modified, transmitted, deleted or otherwise
9 manipulated by a user of such system.

10 **D. “Database”** means or refers to a set of related files that is created and
11 managed by a Database Management System or DBMS.

12 **E. “Database Management System” or “DBMS”** means and refers to
13 software that controls the organization, storage, retrieval, security and integrity of data in a
14 database.

15 **F. “Static Image”** means or refers to a representation of ESI produced by
16 scanning paper documents or converting a Native File to create a standard image format capable
17 of being viewed and printed on standard computer systems. A Tagged Image File Format (TIFF)
18 image is an example of a Static Image.

19 **G. “Documents”** means or refers to any electronic or tangible medium from
20 which information can be obtained and /or translated into reasonably usable form, and shall have
21 the same meaning as used in the Federal Rules of Civil Procedure, including without limitation
22 writings, computer file, drawings, graphs, charts, photographs, sound recordings, images, video
23 and other data, data records or data.

24 **H. “Load/Unitization File”** means or refers to an electronic file containing
25 information identifying a set of paper-scanned images or processed ESI and containing (i) an
26 indication of which individual pages or files constitute each Document, including attachments, and
27 links to the Static Images associated with each Document; (ii) links to any Native Files, including

1 attachments, associated with each Document; and (iii) data relevant to each individual Document,
2 including extracted and user-created Metadata and coded data.

3 **I.** **“OCR”** means or refers to the optical character recognition file that is
4 created by software used in conjunction with a scanner that is capable of reading text-based
5 documents and making such documents searchable using appropriate software.

6 **J.** **“Extracted Text”** means or refers to the user-created text that can be
7 electronically extracted from a native file without the use of OCR. Extracted text is favored over
8 OCR.

9 **K.** **“Receiving Party”** means or refers to the party receiving production of
10 Documents in response to any request for production of document(s) pursuant to Fed. R. Civ. P.
11 34(a) or pursuant to any initial production of documents identified in the party’s Rule 26(a)
12 disclosures.

13 **L.** **“Producing Party”** means or refers to the party producing Documents in
14 response to any request for production of documents pursuant to Fed. R. Civ. P. 34(a) or pursuant
15 to any initial production of documents identified in the party’s Rule 26(a) disclosures.

16 **M.** **“Bates Number”** means or refers to an identifier consisting of a two to
17 seven letter prefix, associated with the Producing Party’s name, followed by numbers (e.g.,
18 ABCD000000001). Each page in the production is assigned a unique, incremental Bates number.
19 The prefix must be the same for all pages from the same Producing Party unless good reason
20 exists for the Producing Party to use a different prefix.

21 **N.** **“Media”** means an object or device, real or virtualized, including but not
22 limited to a disc, tape, computer or other device, on which data is or was stored.

EXHIBIT B**METADATA FIELDS**

Field Name	Field Description	Field Type	Hard Copy	Email	Other ESI	Calendar Items
Begin Bates	Begin Bates (including prefix) – No spaces or special characters	Text	X	X	X	X
End Bates	End Bates (including prefix) – No spaces or special characters	Text	X	X	X	X
All Custodians	Identification of all custodians/sources who the producing party agreed to produce and where a duplicate of the Document was de-duplicated when processing the documents.	Text	X	X	X	X
Custodian	Custodian(s) / source(s) John Doe or ABC Department	Text	X	X	X	X
Time Zone	The TimeZone from which the native file was processed	Text		X	X	X
MD5 Hash	Document MDS hash value (used for deduplication or other processing)	Text		X	X	X
Begin Family	Start Bates of family range	Text	X	X	X	X
End Family	End Bates of family range	Text	X	X	X	X
Pages	Page count	Integer	X	X	X	X
Confidentiality	Confidentiality designation for document	Text	X	X	X	X
Hidden Content	Indicates a document has hidden data (Y/N)	Text			X	
Track Changes	Indicates a document contains track changes (Y/N)	Text			X	
Comments	Indicates a document contains comments (Y/N)	Text			X	
Speaker Notes	Indicates a document contains speaker notes (Y/N)	Text			X	
All Paths	Identification of all file paths for duplicate copies.	Text		X	X	X

Field Name	Field Description	Field Type	Hard Copy	Email	Other ESI	Calendar Items
File Path/Directory Path	Email folder path (sample:Inbox/Active); The name of the folder from which the ESI document was obtained, including any parent folders	Text		X	X	X
From	Author of the Email or Calendar Item	Text		X		X
To	Recipients of the Email	Multi-Entry		X		X
Cc	Names of individuals who were copied on the Email	Multi-Entry		X		X
Bcc	Names of individuals who were blind-copied on the Email	Multi-Entry		X		X
Subject	Email or calendar subject	Text		X		X
Date Created	Datetime electronic file was created internally. Format: MM/DD/YYYY 00:00 pm UTC	Datetime			X	
Date Modified	Datetime electronic file was last modified internally. Format: MM/DD/YYYY 00:00 pm UTC	Datetime			X	
Date Sent	Date the email was sent. Format: MM/DD/YYYY 00:00 pm UTC	Datetime		X		X
Date Received	Datetime Email was received. Format: MM/DD/YYYY 00:00 pm UTC	Datetime		X		X
Message Id	Proprietary email database/mailstore/post office file associated with centrally managed enterprise mail servers. Microsoft Outlook PST EntryID, the UniqueID (UNID) for Lotus Notes, equivalent value for other proprietary mailstore formats.	Text		X		X
Email Conversation Index	Email thread identification	Text		X		X
Date Saved	Date native file was last	Date			X	

Field Name	Field Description	Field Type	Hard Copy	Email	Other ESI	Calendar Items
	modified internally. Format: MM/DD/YYYY					
Date Printed	Date native file was printed (metadata derived from Word documents, etc.)	Date			X	
Author	Author field value extracted from the metadata of a native file	Text			X	
Last Modified By	Identity of last person who modified the document internally from the metadata of a native file	Text			X	
Text Path	File path to the text file location on the delivery medium	Text	X	X	X	X
File Size	File size in KB	Integer		X	X	X
Filename	File name of native file (E-Docs or attachments to Email)	Text		X	X	X
Application	Application used to create native file (e.g., Excel, Outlook, Word)	Text		X	X	X
File Extension	File extension of native file	Text		X	X	X
NativePath	File path location to the current native file location on the delivery medium	Text			X	
Redacted	Indicates a document contains redactions (Y/N)	Text	X	X	X	X
Producing Party	Agency (US) or Entity (Defendants) from whom documents were collected	Text	X	X	X	X